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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-703

UNITED STATES OF AMERICA,

Appellant,

v.

FIRST NATIONAL BANCORPORATION, INC. and THE FIRST NATIONAL BANK OF GREELEY,

Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

APPELLEES' SUPPLEMENTAL BRIEF TO PRESENT NEW MATTER

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In Appellees' brief in chief at page 13, mention was ade that Central Colorado Bancorp, Inc., had applied to quire State Bank of Greeley, thus removing the othold entry argument from this case. On October 3, 72, the Federal Reserve Board approved that plication (Board Approval Statement is appended).

It is of interest here that this unanimous ruling of the ard contained the following statement:

> In view of the number of banks serving the Greeley area and a proposal by another holding company [Colorado National] to open a new bank in the area, *the possibility that applicant could reasonably enter the area through establishment of a de novo bank is remote.* (Emphasis supplied)

This further datum bears directly on the uncontroverted evidence of record that a *de novo* application in Greeley would probably be denied.

Respectfully submitted,

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Attorneys

October, 1972

APPENDIX A

FEDERAL RESERVE SYSTEM

CENTRAL COLORADO BANCORP, INC.

Order Approving Acquisition of Bank

Central Colorado Bancorp, Inc., Colorado Springs, Colorado, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire not less than 90 per cent of the voting shares of State Bank of Greeley, Greeley, Colorado ("Bank").

Notice of the application affording opportunity for interested persons to submit comments and views has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired and the Board has considered the application and all comments received in the light of the factors set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three subsidiary banks with aggregate deposits of approximately $51 million, representing about 1 per cent of deposits of commercial banks in Colorado.[1] Consummation of the proposed transaction would increase Applicant's share of Statewide deposits by only 0.1 percentage point and would not result in a significant increase in the concentration of banking resources in Colorado.

On the basis of deposits, Bank (deposits of $2.5 million) is the smallest of six banks located in Greeley and ranks thirteenth among 15 banks in Weld County.

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[1] All banking data are as of December 31, 1971.

Applicant's closest banking subsidiary to Bank is located approximately 120 miles north of Greeley. In view of factors, such as the distances involved and the nature of Colorado's branching laws, consummation of this transaction would have no significant effect on existing competition, nor is there a reasonable probability that significant potential competition would develop among Applicant's banking subsidiaries and Bank if this application were denied. In view of the number of banks already serving the Greeley area and a proposal by another holding company to open a new bank in the area, the possibility that Applicant could reasonably enter the area through establishment of a *de novo* bank is remote. Indeed, consummation of this transaction may have a procompetitive effect on competition in the Greeley area since it will serve to dilute the interest in Bank of an officer of a competing bank. The Board concludes that the competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are regarded as generally satisfactory and consistent with approval of the application, particularly in view of the commitment of Applicant to raise $4.5 million of additional capital within the next nine-month period, part of which is to be supplied to its banking subsidiaries. Considerations relating to the convenience and needs of the community to be served lend some weight to approval of the application, since Applicant proposes to give financial assistance in the relocation of Bank to an office in Greeley with more modern facilities from which Bank might be able to become a more viable competitor and is expected to expand and improve its banking services. It is the Board's judgment that the proposed

transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] effective October 3, 1972.

/s/ Tynan Smith
TYNAN SMITH
Secretary of the Board

(SEAL)

[1]Voting for this action: Chairman Burns and Governors Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Governors Robertson and Bucher.